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Note verbale dated 28 October 2004 from the Permanent Mission of Slovenia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Slovenia to the United Nations presents its compliments to the Chairman of the Committee, and has the honour to submit the national report of the Republic of Slovenia on the implementation of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 28 October 2004 from the Permanent Mission of Slovenia to the United Nations addressed to the Chairman of the Committee

National report by the Republic of Slovenia on the implementation of Security Council resolution 1540 (2004)

I. THE SLOVENIAN NATIONAL REPORT

1. Political declaration

Slovenia welcomes the adoption of United Nations Security Council Resolution 1540 (2004) on 28 April 2004, which it considers an important milestone in the work of the Security Council that will contribute to international efforts to more effectively prevent the proliferation of weapons of mass destruction and to reduce the possibility of their unauthorized transfers or use. Slovenia shares the view that the main objective of the resolution is to prevent terrorists and non-state actors to acquire nuclear, biological or chemical weapons.

The Government of the Republic of Slovenia takes this opportunity to formally state that Slovenia has never and shall never manufacture, develop or in any other way acquire weapons of mass destruction (nuclear, biological or chemical) and it will therefore never act as broker to non-state actors, such as unrecognised political entities, or extremist, terrorist, criminal and similar groups.

The Government of Slovenia follows a strict policy in the fight against terrorism and is investing all available means in preventing any unauthorised transfer of sensitive materials and technologies that could facilitate weapons of mass destruction coming into the possession of the non-state actors referred to in the resolution.

Slovenia does not develop, produce, or in any other way acquire weapons of mass destruction. Slovenia currently produces dual-use goods, the export of which is strictly controlled. All exports and transfers are monitored on a case-by-case basis. A special government commission deals with each request for an export licence and issues a preliminary decision, while the Ministry of the Economy is responsible for final approval of export licences. The commission includes representatives from the Ministry of the Economy, the Ministry of Foreign Affairs, the Ministry of Defence, the Slovenian Intelligence and Security Agency, the Customs Administration, the Police Force, the Nuclear Safety Administration, and the National Chemicals Bureau.

2. National legislation

Slovenia has passed legislation implementing the Chemical Weapons Convention (CWC) and the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). It has also passed some fundamental laws relating to biological and toxic weapons banned by the Biological and Toxic Weapons Convention (BTWC). Currently, there is new legislation being prepared. When adopted, it will comprehensively regulate all weapons of mass destruction and technology for their production.

Soon after UNSCR 1540 (2004) was adopted, stricter criminal legislation on the transfer of weapons of mass destruction came into force in Slovenia.

On 5 May 2004, amended Article 310 (paragraph 1) of the Penal Code of the Republic of Slovenia came into force, which stipulates a sentence of six months to five years incarceration for **"whoever illegally produces, acquires, offers for sale, stores, exchanges, imports or exports firearms, chemical, biological or nuclear weapons, ammunition or explosives, or military arms and equipment for which trade by individuals is not permitted or limited, or who acts as a broker in such actions."** Article 335 of the same article allow judges to increase the sentence for such acts to 10 years in prison, if the act was committed for an organised criminal association (paragraph 2), and states that any person in public administration that abuses their position to assist in such criminal acts should be sentenced to five years in prison.

The Ionising Radiation Protection and Nuclear Safety Act from 2003 regulates the control of transfers of nuclear weapons and nuclear and radioactive materials.

The Chemical Weapons Act from 1999 regulates the control of transfers and exports of chemical weapons. This Act also regulates production, reprocessing and use of chemicals contained in lists of chemicals listed in the Annex to the CWC, and national and international monitoring (performed by the OPCW) of these chemicals as well.

The control of the export and transfer of dual-use goods (for nuclear, chemical and biological weapons) was regulated by the 2000 Act regulating the Export of Dual-Use Goods and 1999 Chemical Weapons Act, until Slovenia joined the European Union on 1 May 2004; since then it has been covered by Council Regulations 1334/2000 and 1504/2004, and the amended Act regulating the Export of Dual-Use Goods of 2004 and Chemical Weapons Act of 1999.

3. Slovenia and international instruments

Slovenia is a party to the Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and the Biological and Toxic Weapons Convention (BTWC).

Slovenia has concluded and ratified a Safeguards Agreement with the International Atomic Energy Agency (IAEA) and the Additional Protocol, both of which are consistently implemented. The Safeguards Agreement with the IAEA was ratified in 1997, in relation to the treaty on the non-proliferation of nuclear weapons (NPT). The Additional Protocol to the agreement was ratified in 2000, after Slovenia had been one of its first signatories in 1998.

Slovenia is a member of a number of international export verification regimes, including the Zangger committee, the Nuclear Suppliers Group (NSG) and the Australian Group.

Slovenia has also applied for membership of the Missile Technology Regime (MTCR) and the Wasenaar Arrangement, and expects full membership will start in 2005. Despite the fact it is not yet a member of these regimes, Slovenia already controls the products they cover on the basis of the Act

regulating the Export of Dual-Use Goods and the newly amended Defence Act of 2004, which regulates trade in military equipment and weapons.

Slovenia is a party to the Hague Code of Conduct against Ballistic Missile Proliferation. Slovenia supports and cooperates with EU efforts towards the universal adoption of the Hague Code and the Safeguard Agreement plus Additional Protocol, between UN members and the IAEA.

4. Implementing national legislation and inter-ministerial coordination

- The Government established the Supervisory Commission for the Export of Dual-Use Goods, which issues preliminary decisions on individual requests for a licence to export such goods, and coordinates the work of competent ministries to implement the Act regulating the Export of Dual-Use Goods.

- The Ministry of the Economy and is responsible for issuing licences to export dual-use goods.

- The Ministry of the Economy and the National Chemicals Bureau both have responsibilities covering chemicals used in the production of chemical, biological and toxic weapons.

- The Ministry of the Economy and the Nuclear Safety Administration are responsible for issuing licences to export nuclear and radioactive materials.

- **The Ministry of Foreign Affairs** is responsible for passing domestic legal acts on the implementation of restrictive measures relating to international embargos (UN, OSCE), and EU restrictive measures on third states whose conduct is not in line with international standards, either in terms of violating human rights, supporting terrorism, or being in some way responsible for the proliferation of conventional weapons (light weapons) and military equipment, and weapons of mass destruction.

- **The Police Force and Customs Administration** are charged with detecting and preventing illegal conduct with such goods.

Politically, **inter-ministerial coordination** takes place at the ministerial office level.

National coordination in the fight against terrorism also takes place via the Government's special working body for the assessment of threats to national security. This is chaired by the director of Slovenian Intelligence and Security Agency and assisted by the secretariat of the National Security Council, and has representatives from the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Finance, Ministry of the Economy, Ministry of Health, the Customs Administration, the Office for the Prevention of Money Laundering and the National Bank of Slovenia.

5. Action at the European Union level

Since 1 May 2004, Slovenia has been a full member of the European Union, and has consequently adopted the EU *acquis communautaire*. **The Government therefore expresses its agreement with**

the Report by the European Union of 27 October 2004 on the implementation of UNSCR Resolution 1540, prepared by the EU Presidency, the General Secretariat of the Council of the European Union and the European Commission and submitted to Committee of the UN Security Council overseeing the implementation of the resolution.

Slovenia fully supports the EU Strategy against Proliferation of Weapons of Mass Destruction, adopted by the European Council on 12 December 2003 in Brussels, as a key EU document on this field and has aligned itself also with numerous other EU documents addressing this problem. Mention should be made of the decision by the EU Council of Ministers on General Affairs and External Relations that the EU demand a non-proliferation clause in all mixed bilateral agreements on cooperation with third states. The first important example of such a clause, requiring third states to respect international instruments on the non-proliferation of weapons of mass destruction, came in the agreement between the EU and Syria, which is to be signed by the end of 2004.

II. COMMENTS IN RELATION TO SPECIFIC PARAGRAPHS OF RESOLUTION 1540 (2004)

Operative paragraph 1

"Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery."

Slovenia does not support any non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons. This is prohibited by applicable Slovenian legislation, and furthermore this position has been a constant element of Slovenia's foreign policy.

Operative paragraph 2

"Decides that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws, which prohibit any Non-state actor to manufacture, acquire, possess, develop, transfer or use nuclear, chemical, or biological weapons and their mean to delivery, in particular for terrorist purposes, as well an attempt to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them."

After Resolution 1540 was adopted, Slovenia immediately amended its Penal Code. Article 310 of the Penal Code establishes the criminal offence of manufacturing and transferring weapons, which applies to persons that illegally produce, acquire, offer, sell, store, exchange, import or export firearms, chemical, biological or nuclear weapons, ammunition or explosives, or military arms and equipment for which trade by individuals is not permitted or limited, or persons who act as brokers in such actions.

Article 319 of the Penal Code establishes the criminal offence of endangerment with nuclear materials for persons that possess, use, discard, transport or in any other manner have nuclear

materials available and act in contravention of regulations or technical rules relating to nuclear materials.

Article 335 of the Penal Code establishes the criminal offence of bringing dangerous substances into the state, in contravention of the provisions of Article 335. According to Article 335, "radioactive and other harmful substances" are also considered dangerous.

Article 338a of the Penal Code includes the new criminal offence of financing terrorism, which is committed by whoever provides or collects money or property intended for use, either in part or in full, for terrorist acts. This criminal offence also covers funds that are collected but not subsequently used to commit terrorist acts.

The following legislation exists in Slovenia in relation to specific types of weapons of mass destruction:

The Ionising Radiation Protection and Nuclear Safety Act from 2003, which regulates the control of transfers of nuclear weapons (and nuclear and radioactive materials).

The Chemical Weapons Act from 1999, which regulates the control of transfers and exports of chemical weapons.

The control of biological weapons and dual-use goods is regulated by Chemical Weapons Act, the Act regulating the Export of Dual-Use Goods, and the Decree on the Implementation of Dual-Use Goods Control. A new act that will provide full coverage of the manufacture and use of chemical and biological materials and related technologies is in preparation.

Operative paragraph 3
"Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including establishing appropriate controls over related materials and to this and shall:

a) develop and maintain appropriate effective measures to account for and secure such items in production, storage, or transport;

Records on nuclear materials are regulated by the Ionising Radiation Protection and Nuclear Safety Act, the Rules on Material Balance Areas and on the Method of Keeping Records on Nuclear Materials and on the Dispatch of Data from these Records. International supervisory organisations have not found any irregularities or other dangerous conduct in Slovenia to date. Slovenian administrative bodies and nuclear facility administrators submit regular reports to the IAEA and the Euratom Safeguards Office in Luxembourg.

Security for nuclear materials during transfer is ensured by the Police Force and the Ministry of the Interior, which is responsible for the security of all dangerous substances, including biological and chemical weapons.

b) develop and maintain appropriate effective physical protection measures;

The physical protection of nuclear material is regulated by the Ionising Radiation Protection and Nuclear Safety Act and the Convention on the Physical Protection of Nuclear Material (Official Gazette of the Socialist Federative Republic of Yugoslavia, International Treaties, 9/85). Two implementing acts on the physical protection of nuclear materials based on this law are in preparation. Slovenia respects general IAEA recommendations in this field, particularly the INFCIRC 225/rev.4 document.

c) develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

The Customs Administration and Police Force are equipped to detect nuclear and radioactive materials. Procedures exist for the detection of illegal trade in nuclear and radioactive materials.

In accordance with the Customs Service Act from 1999 and the European Community Customs Code (Council Regulation (EEC) 2913/92), Slovenia's Customs Administration has the power to carry out controls relating to illegal trade in these materials throughout Slovenia. In accordance with the laws mentioned above, customs officers may obtain all information on the expert and import of any goods, view any documents for the purpose of checking customs documents (including on company premises), and check, sample, and impound goods in case of reasonable suspicion. The Police Force is charged with direct control of the national border in accordance with the National Border Control Act from 1991.

In accordance with multilateral and bilateral accords on reciprocal assistance between customs administrations, the Slovenian Customs Administration can exchange information on illegal conduct with goods with other states.

The Customs Administration has developed a computer support system that aids in the interception of any goods considered to pose a risk, irrespective of the type of customs procedure or means of transport that could be used for illegal goods.

d) establish, develop, review and maintain appropriate effective national export and transhipment controls over such items, including appropriate laws and regulations to control export, transit, transhipment and re-export and controls on providing funds and services related to such export and transit shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

The basic principle in this field is that all requests for an export licence are treated on a case-by-case basis. The competent authority issues licences separately for each request. Legislation covering this area includes the Customs Service Act from 1999, the Chemical Weapons Act

from 1999, the Defence Act from 1994 (amended in 2004), the Act regulating the Export of Dual-Use Goods, the EU's Dual-Use export regulation (Reg. (EC) No. 1334/2000), and the Community Customs Code set out in Council Regulation (EEC) no. 2913/92).

The issue of transit and trans-shipment is regulated separately.

Slovenia strictly controls brokering in this field. Any brokering company that operates in Slovenia must obtain a licence from the competent ministry.

Operative paragraph 5
"Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention, and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons."

Slovenia is a party to the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and the Biological and Toxic Weapons Convention (BTWC). Slovenia is also a member of the International Atomic Energy Agency (IAEA) and the Organisation for the Prohibition of Chemical Weapons (OPCW) based in The Hague. It is participating in the Geneva discussions to strengthen the BTWC convention.

Operative paragraph 6
"Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member states, when necessary, to pursue at the earliest opportunity the development of such lists."

Slovenia is a member of several international export control regimes, based on detailed national export control lists. Slovenia is a member of the Nuclear Suppliers Group (NSG), the Zangger committee and the Australian Group, and has applied for membership of the Wasenaar Arrangement and the Missile Technology Regime (MTCR). Slovenia maintains and regularly updates its national export control lists.

Slovenia is endeavouring to raise the quality of information at the national level, and is also working to encourage new third states to join the export control regimes if they are capable of controlling the export of these materials with sufficient respect for international control lists.

Operative paragraph 7
"Recognizes that some states may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or sources for fulfilling the above provisions."

Slovenia is prepared to provide assistance as appropriate in response to specific requests by the States lacking the legal and regulatory infrastructure, implementation experience and/or sources for fulfilling the provisions from the resolution 1540 (2004).

Operative paragraph 8
"Calls all states:

a) to promote the universal adoption and full implementation, and where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Slovenia supports all efforts towards the universal adoption of the Chemical Weapons Convention (CWC) and the Biological and Toxic Weapons Convention (BTWC). Slovenia has, on several occasions, supported proposals for the universal adoption of the Nuclear Non-Proliferation Treaty (NPT), and supports the EU's Common Position on the universal adoption of the main multilateral agreements and conventions (NPT, BTWC and CWC).
Slovenia also joins other EU members in lobbying for new Safeguard agreements and additional protocols between UN members and the European Union, where those do not yet exist.

b) to adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Slovenia has established controls over the export of sensitive materials and weapons of mass destruction. The control system is effective, but not yet complete, so the Government plans to improve control over the export and transfer of biological and toxic weapons in 2005 and 2006. New legislation, which is under preparation, will substantially contribute to these efforts.

c) to renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Slovenia fully supports and endorses the efforts of the IAEA to strengthen safeguards and enhance the Safety and Security of Radioactive Sources and is encouraging other states to do the same. Slovenia supports the multilateral cooperation with the OPCW.

d) to develop appropriate ways to work with and inform the industry and the public regarding their obligations under such laws;

The competent government bodies – the Ministry of the Economy, Customs Administration, National Chemicals Bureau and the Nuclear Safety Administration – actively cooperate and organise workshops and seminars to inform industry of its legal obligations in this field.

Operative paragraph 9
"Calls upon all states to promote dialogue and cooperation on non proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons or their means of delivery."

Slovenia supports all efforts by the international community to promote dialogue and cooperation on non-proliferation in all international forums addressing the threat posed by weapons of mass destruction.

Slovenia emphasises in this field the importance – in addition to the dialogue within the UN – of subregional forums such as the Organisation for Security and Cooperation in Europe (OSCE), the African Union, and ASEAN in Asia. These forums could achieve much more than they have to date, and could achieve significant progress through regional dialogue and cooperation.

Operative paragraph 10
"Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illegal trafficking in nuclear, chemical or biological weapons, their means of delivery"

Slovenia does all in its capacity to assist third countries in preventing trafficking in nuclear, chemical and biological weapons and their means of delivery. The Customs Administration is active in this field developing contracts and offering administrative assistance to other countries in accordance with multilateral and bilateral agreements.

Ljubljana, 28 October 2004